

REMARKS

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of Group I, claims 49, 50, 52-59, 61-63, and 97, drawn to a soybean plant comprising a promoter operably linked to a polynucleotide having at least 70% identity to SEQ ID NO: 2(fad2) and exhibiting about 26-80% oleic acid, about 2.97-49.92% linoleic acid, and about 3.38-8.81% linolenic acid, classified in class 800, subclass 312. However, Applicants submit that the Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP §803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

At least, Groups I, V, and IX should be should be examined simultaneously since these groups are based on the same plant species and have the same class and subclass. The Examiner alleges that these groups are capable of being separately made, independently used and the patentability of one does not render the others obvious or unpatentable but provides no evidence. Accordingly, examination of Groups I, V, and IX together would pose no undue burden on the Examiner.

In order to facilitate prosecution, however, Applicants have canceled claims 50-51, 57, 59-60, 63-64, 66-67, 73, 75-76, 79-80, 82-83, 89, 95-96 without prejudice and amended claims 49, 52-56, 58, 61-62, 65, 68-72, 74, 77-78, 81, 84-88, 90-94, 97 all without prejudice or disclaimer to the subject matter disclosed therein by way of the present amendment. It is noted that the canceled and amended claims have been canceled or amended due to being directed to a non-elected invention. Regardless, Applicants reserve the right to prosecute the non-elected inventions in a continuing application. With this response, claims 98-102 have been newly added. No new matter enters by this amendment. Support for the foregoing claim amendments may be found throughout the specification and in the original claims. As such, claims 49, 52-56, 58, 61-62, 65, 68-72, 74, 77-78, 81, 84-88, 90-94, 97-102 are currently pending.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. The Examiner is encouraged to contact the undersigned at (202) 942-5186 should any additional information be necessary for allowance.

Respectfully submitted,

A handwritten signature in black ink, reading "Kristan Lansbery". The signature is written in a cursive, flowing style.

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